



House of Representatives

General Assembly

File No. 564

February Session, 2002

Substitute House Bill No. 5581

House of Representatives, April 24, 2002

The Committee on Planning and Development reported through REP. DAVIS of the 50th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CONSOLIDATION OF FIRE DISTRICTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Notwithstanding the
2 provisions of the general statutes or any public or special act, charter
3 or home rule ordinance, any municipality with a population of more
4 than fifty thousand and a geographic area of twelve square miles or
5 less, in which are located three districts organized under sections 7-324
6 to 7-329, inclusive, of the general statutes, or any special act and
7 providing fire fighting services, any one or more of which districts has
8 an unfunded past benefit obligation in excess of its most recently
9 adopted annual budget, may assume the powers and responsibilities
10 of all of such fire districts if consolidation of the fire districts is
11 approved by a majority of the electors voting at a referendum in the
12 municipality. The legislative body of the municipality shall provide by
13 resolution for a referendum to determine whether such districts shall
14 be consolidated pursuant to this section. Such referendum shall be

15 conducted in accordance with sections 9-369 to 9-371a, inclusive, of the
16 general statutes, as amended, and be held not more than ninety days
17 after the effective date of this act. If consolidation is approved by such
18 referendum, the districts shall terminate and consolidate with the
19 municipality on the ninetieth day following the approving
20 referendum, except if the resolution establishes an earlier date for
21 termination and consolidation, on such earlier date. As used in this
22 section, "unfunded past benefit obligation" means the unfunded
23 actuarial accrued liability of the pension plan determined in a method
24 and using assumptions meeting the parameters established by
25 generally accepted accounting principles.

26 Sec. 2. (NEW) (*Effective from passage*) If the referendum conducted
27 under section 1 of this act approves consolidation, the municipality
28 shall assume and exercise through a municipal fire department the fire
29 and public safety powers and responsibilities previously exercised by
30 the districts on the date established for consolidation pursuant to
31 section 1 of this act.

32 Sec. 3. (NEW) (*Effective from passage*) If the referendum conducted
33 under section 1 of this act approves consolidation, on the date
34 established for consolidation pursuant to section 1 of this act, (1) all
35 property, both real and personal, and all rights of action and other
36 rights with all securities and liens belonging to or vested in any
37 district, shall be transferred to the municipality without further action
38 or need for recording; (2) the municipality shall be liable for and shall
39 assume all debts and obligations of the districts; (3) all rights and
40 responsibility of a contract entered into by the districts, including
41 collective bargaining units, shall be the rights and responsibility of the
42 municipality; (4) all federal, state, regional and municipal officials,
43 officers and other persons or corporations that are required by law to
44 pay money to the districts or their treasurers or other officers, shall pay
45 such money to the treasurer of the municipality; (5) the municipal tax
46 collector shall possess and may exercise the rights and duties
47 possessed by district tax collectors, including with respect to the
48 collection of taxes due or coming due in any district, the lien or

49 foreclosure of property therefor and the institution or continuation of
50 any such collection or foreclosure action instituted, or lien filed or
51 capable of filing by a district; (6) the municipal tax collector shall
52 possess and may exercise all rights and powers as municipal tax
53 collector to preserve, collect or foreclose any tax, fee, interest, or cost
54 owed at any time to a district, or owed to the municipality as a result
55 of termination of such district, or lien arising therefrom; (7) the
56 municipal treasurer shall possess and may exercise the rights and
57 duties possessed by the district treasurer, including with respect to the
58 collection of debts and revenue and other responsibilities exercised by
59 such office; and (8) any security, lien, debt or obligation accruing or
60 owed to a district, or accruing or arising after consolidation with the
61 municipality, or which would have accrued or arisen but for
62 consolidation, shall be owed to and collected by the municipality.
63 Notwithstanding the provisions of this act, the municipality shall
64 assume all financial obligations incurred by a district with respect to
65 any employment or pension right or contract, including any financial
66 obligation arising in connection with a bargaining unit, except those
67 arising from promotions made after January 1, 2002, unless (A) such
68 promotion fills a position existing as of January 1, 2002, that was
69 vacant at the time it was filled by the promotion, and (B) the city
70 negotiates with such employee organization in accordance with the
71 provisions of sections 7-467 to 7-477, inclusive, of the general statutes
72 immediately upon the designation of an employee organization as the
73 exclusive representative of the employees of the fire department of the
74 city.

75 Sec. 4. (NEW) (*Effective from passage*) If the referendum conducted
76 under section 1 of this act approves consolidation, the public officials,
77 employees and other agents of any districts consolidated pursuant to
78 this act shall cooperate and assist the municipality and the board of fire
79 commissioners created pursuant to section 5 of this act or any other
80 municipal fire fighting administrative body in the assumption of
81 responsibilities and obligations of the districts by the municipality. No
82 present or former employee, official or other agent of any district shall
83 remove any document, record or property of the district, or which

84 belonged to the district prior to its termination, from district offices or
85 files, or secrete or fail to disclose the location of such records to
86 municipal officials. District officials and employees shall identify and
87 make available to municipal officials every law, ordinance, resolution,
88 policy or other operating practice or policy adopted by the district, its
89 officials or employees with respect to its operations, and all contracts,
90 invoices, checkbooks, bank accounts, receipts, audits, warranties and
91 any other record or document with regard to the operation and
92 maintenance of the district, its finances, facilities and equipment.

93 Sec. 5. (NEW) (*Effective from passage*) If the referendum conducted
94 under section 1 of this act approves consolidation:

95 (1) In order to provide for a continuation of fire protection and
96 safety services, the municipality shall provide for management of fire
97 protection for its inhabitants and within its geographic area by a board
98 of fire commissioners. The board shall consist of five members. The
99 members shall be comprised of the chairperson or acting chairperson
100 of each fire district consolidated pursuant to this act and the balance
101 appointed by the chief elected official of the municipality. Such
102 members shall be appointed and take office within two weeks of
103 approval of the consolidation resolution. The board shall have all
104 powers conferred on such boards pursuant to section 7-301 of the
105 general statutes. The members of the boards shall initially serve for a
106 two-year term at the expiration of which the members shall be
107 appointed by the chief elected official of the municipality with the
108 approval of the elected legislative body as follows: One for a term of
109 one year, one for a term of two years, one for a term of three years, one
110 for a term of four years and one for a term of five years. Thereafter, the
111 members shall be appointed for five-year terms. The board shall
112 provide for the integration of the fire districts as one municipal fire
113 department.

114 (2) After the effective date of termination of the districts, a
115 municipality may initiate and exercise any powers and otherwise
116 provide for the fire fighting management as authorized under the

117 general statutes and as provided by law, notwithstanding that the
 118 exercise of such powers is inconsistent with the provision of this
 119 section, provided no such exercise shall affect the termination of the
 120 districts, or the assumption of district rights and obligations by the
 121 municipality.

122 Sec. 6. (NEW) (*Effective from passage*) If the referendum conducted
 123 under section 1 of this act approves consolidation, the chief elected
 124 official of the municipality shall appoint a chief of the municipal fire
 125 department who shall serve in accordance with law.

126 Sec. 7. (NEW) (*Effective from passage*) Any consolidation and
 127 termination of fire districts under the provisions of this act shall not
 128 affect the existence of any volunteer fire departments, companies or
 129 volunteers in the municipality which report to the chief of the
 130 municipal fire department.

131 Sec. 8. (NEW) (*Effective from passage*) The invalidity of any section or
 132 provision of this act shall not affect the continued validity of the
 133 remaining provisions.

134 Sec. 9. (NEW) (*Effective from passage*) The provisions of this act shall
 135 terminate six months after the effective date of this act.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage</i>

PD Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill would allow municipalities, through referendum, to consolidate fire districts operating within them. While there are approximately 70 fire districts across the state, the language of the bill is drafted such that the provisions appear to only apply to the city of West Haven. West Haven consists of the fire districts of Allingtown, First Fire/Center, and West Shore. Each are taxed separately for their respective fire services.

OLR Bill Analysis

sHB 5581

AN ACT CONCERNING CONSOLIDATION OF FIRE DISTRICTS**SUMMARY:**

This bill allows towns meeting very narrow criteria to hold a referendum on consolidating fire districts operating within them. A fire district is one type of special taxing district organized under the statutes or a special act to levy property taxes and provide services to a specific part of a town. The law already provides separate procedures for consolidating a district and a town and terminating a district. The consolidation procedure requires a referendum while termination requires one if the district's voters request it.

The bill allows a town to hold a referendum on consolidating and terminating its fire districts if it has over 50,000 people and covers no more than 12 square miles. It must contain three fire districts, at least one of which has an unfunded actuarial accrued pension liability, as determined by generally accepted accounting principles. West Haven appears to be the only municipality meeting these criteria.

An eligible town that decides to consolidate the districts must hold the referendum within 90 days after the bill takes effect. The consolidation takes effect no more than 90 days after it is approved. (The bill expires six months after its effective date.) During the period immediately following the referendum, the town must appoint a five-member fire commission to integrate the districts' services. The districts' officers and employees must help the board and the town complete the transition. The town can begin to provide fire services under its own authority after the 90-day period following the referendum expires. At that point, it assumes the districts' powers, duties, assets, and obligations, including those affecting districts' employees.

The bill specifies that any ruling invalidating one of its sections or provisions does not invalidate the remaining sections or provisions.

EFFECTIVE DATE: Upon passage

PROCEDURAL REQUIREMENTS

The town must hold a townwide referendum on whether the districts should be consolidated and terminated. Its legislative body must adopt a resolution authorizing the referendum. The resolution must schedule the referendum, to be conducted under the same statutory procedures that apply to municipal referenda, within 90 days after the bill's effective date. If approved, the districts terminate and consolidate 90 days after the referendum or sooner if the resolution specifies an earlier date.

TRANSITION PERIOD

Board of Fire Commissioners

The bill provides a permanent five-member fire commission to insure that the town continues to receive firefighting and fire safety services during the transition period. The board can exercise the same powers as fire commissions created under the statutes. These include adopting regulations for operating the fire department, hiring and firing department employees, and purchasing supplies and equipment.

The board's initial members serve two-year terms and consist of the chairman or acting chairman of each district and two members appointed by the town's chief elected official (CEO). All of the members must take office within two weeks after the voters approve the consolidation. The CEO reappoints these members to staggered terms after their first terms expire. He must do so with the legislative body's approval. The members serve a one-, two-, three-, four- or five-year term. The subsequent members all serve five-year terms. The board must integrate the separate fire districts as one municipal fire department.

District Cooperation

The districts' officials, employees, and agents must cooperate with the town during the three-month period before the districts officially terminate. They must help the town, the commission, and any other firefighting agencies assume the districts' responsibilities and obligations. They must provide all types of documents, records, and reports relating to the districts' property, operations, and finances.

The bill specifically bans current and former district officials and employees from removing documents, records, or property from district offices or files or hiding them from town officials. They must disclose where these documents are located and identify and provide every law, ordinance, resolution, policy, or operating practice or policy the districts' adopted.

Assumption of Districts' Powers

The CEO must appoint a chief to head the town's fire department. But the town cannot begin to manage firefighting services townwide until after the districts have been terminated and consolidated, which under the bill must happen 90 days after the referendum. The bill appears to let the town exercise its firefighting management powers other than through the board. In exercising these powers, the town cannot affect the districts' termination or its assumption of their rights and obligations.

Volunteer Fire Departments

The districts' consolidation and termination does not affect volunteer fire departments or companies or volunteer firefighters who report directly to the town's fire chief.

TRANSFER PROVISIONS

Powers and Responsibilities

The town assumes the districts' fire and public safety powers and responsibilities after the consolidation and termination take effect. It must do this through a fire department.

Assets

The town assumes ownership of the districts' real and personal property without further action or recording. The transfer includes all rights of action and other rights along with securities and liens belonging to the districts. The town also assumes ownership of the securities, liens, debts, or obligations accruing or owed to the districts and can collect on them. These include obligations that accrue or arise after consolidation or that would have done so if it did not occur. Any monies owed the districts must be paid to the town's treasurer.

Contractual Rights and Obligations

The town becomes liable for the districts' debts, obligations, and contractual rights and responsibilities, including those specified in collective bargaining. The latter includes financial obligations under an employment or pension right or contract. But it is liable for obligations arising out of promotions made after January 1, 2002 only if:

1. the promotion fills a vacancy in a position that existed on that date and
2. the "city" negotiates with the employee organization as soon as an employee organization is designated exclusive representative of town's fire department. (The bill's language concerning the designated employee organization is unclear.)

Financial Powers

The bill transfers the districts treasurers' rights and duties to the town's treasurer. These include the power to collect debts and revenue and take other actions necessary to fulfill the district treasurers' responsibilities.

The bill also transfers all of the districts tax collectors' rights and duties to the town's tax collector. These include creating and foreclosing on liens and taking other steps to collect current and back taxes. The tax collector can also use his statutory rights and powers to secure district and town taxes and related fees resulting from the districts' termination.

BACKGROUND***Legislative History***

The Planning and Development Committee favorably reported the original bill on March 13, 2002. The Legislative Commissioners' Office returned it to the committee under Joint Rule 13, which requires the commissioners to return bills that are unconstitutional or duplicate existing law. Under that rule, the committee favorably reported a new version on April 16, 2002, which the commissioners approved.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 12 Nay 5

Planning and Development Committee

Joint Favorable Substitute

Yea 10 Nay 5